

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTONIO FREEMAN, #1512080,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:19-CV-509-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On December 9, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 14), recommending that the action be Petitioner's successive federal habeas petition be denied without prejudice to his right to seek permission from the Fifth Circuit Court of Appeals to file a successive petition. A return receipt indicating delivery to Petitioner was received by the Clerk on December 23, 2019 (Docket No. 17).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Petitioner did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*,

492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 14) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 14) be **ADOPTED** and that Petitioner's federal habeas petition is **DENIED** without prejudice to Petitioner's right to seek permission from the Fifth Circuit Court of Appeals. All pending motions are **DENIED** as **MOOT**. Petitioner is **DENIED** a certificate of appealability *sua sponte*.

So **ORDERED** and **SIGNED** this **28th** day of **January, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE